

## UNITED STATES DISTRICT COURT

## EASTERN DISTRICT OF TEXAS

UNITED STATES OF AMERICA,

Plaintiff,

v.

JIMMY JAMES MAMOTH, JR.,

Defendant.

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NO. 1:19-CR-146-MAC

**ORDER OVERRULING DEFENDANT'S OBJECTIONS AND ADOPTING FINDINGS  
OF FACT AND RECOMMENDATION TO DENY DEFENDANT'S  
MOTION TO SUPPRESS**

The court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, for consideration and entry of proposed findings and recommended disposition. On December 22, 2020, Judge Hawthorn issued his Report and Recommendation on the Defendant's Motion to Suppress (Doc. No. 110) and recommended that the court deny the motion. (Doc. No. 210.)

Mamoth received a copy of this report on December 29, 2020 (Doc. No. 212), and filed a *pro se* response to the Magistrate Judge's recommendation (Doc. No. 232), which the court construes as objections to the report. The court conducted a *de novo* review pursuant to Fed. R. Civ. P. 72(b)(3) and 28 U.S.C. § 636(b)(1)(C) of the pending motion, the record, and the applicable law. Many of the arguments made in Mamoth's objections contain new arguments not relevant to his original *Motion to Suppress* (Doc. No. 110). As such, these issues are not properly before this court. *See United States v. Armstrong*, 951 F.2d 626, 630 (5th Cir. 1992) (issues first raised in objections to magistrate's report and recommendation need not be considered by the district court); *Freeman v. Cnty. of Bexar*, 142 F.3d 848, 850 (5th Cir. 1998) (recognizing that, absent compelling reasons, the requirement of the District Court to conduct a *de novo* review does not permit the parties to raise "new evidence, argument, and issues that

were not presented to the Magistrate Judge”); *Cupit v. Whiteley*, 28 F.3d 532, 535 (5th Cir. 1994) (arguments that could have been raised before the Magistrate Judge, but were raised for the first time in objections before the District Court, were waived). In addition, these arguments are substantively the same as those made in Mamoth’s second *Motion to Suppress* (Doc. No. 228), which will be addressed in a subsequent order. To the extent that any of the objections can be characterized as attacking the Magistrate Judge’s report and recommendation, they should be overruled.

Accordingly, the court finds the objections have no merit and that Judge Hawthorn correctly concluded that Mamoth’s *Motion to Suppress* should be denied for the reasons explained above, as well as those stated in Judge Hawthorn’s Report (Doc. No. 210). The court **OVERRULES** the Defendant’s Objections (Doc. No. 232), **ADOPTS** Judge Hawthorn’s Report and Recommendation (Doc. No. 210), and **DENIES** the Defendant’s *Motion to Suppress*. (Doc. No. 110).

SIGNED at Beaumont, Texas, this 7th day of January, 2021.



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MARCIA A. CRONE  
UNITED STATES DISTRICT JUDGE